

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Rick & Nanette Tollakson,
Appellants,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 13-25-0915
Parcel No. 12-24-476-003

On March 7, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Jennifer Drake of Hubbell Realty represented appellants Rick and Nanette Tollakson at the hearing. County Attorney Wayne M. Reisetter is counsel for the Board of Review. County Assessor Steve Helm appeared on its behalf at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Rick and Nanette Tollakson are the owners of residentially classified property located at 14239 Ridgemont Drive, Urbandale, Iowa. The Dallas and Polk County lines bisect the Tollaksons' site. The Tollaksons' home is located on the Polk County side of the site. The Dallas county portion of the site, which is the subject of this appeal, is listed as vacant and is 39,204 square feet.

The January 1, 2013, assessed value was \$131,510. The Tollaksons protested to the Dallas County Board of Review claiming the property was inequitably assessed under Iowa Code section 441.37(1)(a)(1). The Board of Review reduced the assessed value to \$120,000.

The Tollaksons then appealed to this Board reasserting their claim. They contend the property's correct value is \$5,000.

The subject property is distinctive as it straddles the Dallas/Polk county line, with the majority of the improvements located on the Polk County side of the site. The portion of the subject site in Polk County is 23,767 square feet and improved with a single-family residence. (Exhibits 1, A). The total site size of the property is 1.44 acres. Solely because of its location on the county line, it has two legal descriptions: Rosewood Lot 11 (Polk County) and Rosewood Lot 11B (Dallas County). The subject property will be referred to throughout the remainder of this Order as “Lot 11B.”

The combined 2013 assessment of the site is as follows:

	<u>Site Size</u>	<u>2013 AV</u>	<u>2013 AV/PSF</u>
Polk County (Lot 11):	23,767 square feet	\$113,300	\$4.77 per-square-foot
Dallas County (Lot 11B):	39,204 square feet	\$120,000	\$3.06 per-square-foot
Total:	62,971 square feet	\$233,300	\$3.70 per-square foot

According to the record, Lot 11B backs to parkland dedicated to the City of Urbandale. It slopes toward the rear, ending in a ditch-like ravine; is heavily treed; and has a 50-foot conservation easement along the rear lot line. Based on aerial photographs in an appraisal report the Tollaksons submitted, their property is similar to the other sites in the development and offers desirable views and privacy. (Exhibit 1). The appraisal report states the development consists of executive quality homes with a median sale price in the last two years of \$900,000.

The Tollaksons submitted an exhibit with their petition to the Board of Review outlining their assertion that Lot 11B is inequitably assessed. (Exhibit A to the Bd. of Review). The exhibit includes a list of properties in Dallas County identified by parcel number, deed holder, assessed value, and the assessed value per-square-foot. Of the seven comparable properties, only two are located in Lot 11B’s development with the same unique aspect of having a portion of the total site in both Polk and Dallas County. Those two parcels are lots 9B and 12B in the subject’s development. The other five parcels the Tollaksons identified are reportedly located in the Walnut Trace development, but due to insufficient information, we cannot determine if they are similarly situated. Therefore, we give them no consideration.

The Tollaksons also submitted an appraisal of Lot 11B completed by William Pruett of Rally Appraisal, West Des Moines, Iowa. The appraisal has an effective date of February 5, 2014, and values Lot 11B for \$23,300. The appraisal is based on the hypothetical condition that “the subject parcel is a separate parcel not contingent upon the adjoining lot 11.” (Exhibit 1, p. 3). A hypothetical condition is defined as a condition “contrary to what exists but is supposed for the purpose of analysis.” APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 97 (5th ed. 2010). In this instance, we find the use of the hypothetical condition inappropriate, as it does not allow for an accurate reflection of the fair market value for assessment purposes when Lot 11B is contingent upon the adjoining Lot 11.

Pruett considered four sales in the Des Moines metro area that he identified as surplus land sales. He adjusted the sales for differences and arrived at a price-per-square-foot from \$0.68 to \$0.76. From within this range, he concludes a value-per-square-foot for Lot 11B of \$0.75. Although the property record card reports the subject site as unimproved, Pruett notes a swimming pool is located partially on Lot 11B. Ultimately, because a small portion of Lot 11B he was valuing is improved, he determined it would be “most physically possible and financially feasible to divide the subject parcel so it did not include the swimming pool.” (Exhibit 1. p. 3). Therefore, he carved out 8214 square feet from Lot 11B and valued the remaining 30,990 square feet. We find this diminishes the reliability of his conclusions for assessment purposes because the entirety of Lot 11B must be valued.

Pruett asserts Lot 11B does not have access from public streets and backs to parkland dedicated to the City of Urbandale. Therefore, he considers it surplus land with no development potential. Further, he reports he contacted Steve Franklin with the Urbandale City zoning department and confirmed Lot 11B could be sold as a separate parcel. First, we question whether Franklin’s answer was based on Lot 11 and 11B being vacant or improved. While it may be possible, theoretically, to sell Lots 11 and 11B as separate sites when vacant, we find it unlikely that “as improved” Lot 11B could be sold separately due to the necessary site setbacks that would be needed for the already

improved Lot 11. In fact, Pruett stated that it would be unlikely that a buyer would purchase Lot 11 without also purchasing Lot 11B.

We find the character of the subject development further dictates that the marketplace would consider Lots 11 and 11B as a single unit. Considering the total of the Tollaksons' property located in Polk and Dallas County, if Lots 11 and 11B were unimproved, we find it would be reasonable to assume Lot 11B could be sold separately. However, the marketing and sale of the entirety of the Tollaksons' property was as a single site: It was purchased as a single site and is currently improved as a single site.

Rick Tollakson testified he purchased the property (Lots 11 and 11B) as a unit in a single sales transaction in 2004 for \$230,000. When questioned if he would sell Lot 11B for the \$23,300 appraised value, he explained he would sell it if the City of Urbandale wanted to purchase it for park expansion. We find this limiting condition serves to ensure the continued privacy the Tollaksons currently enjoy with private ownership and supports a finding that the parcels should be considered as a unit.

The Board of Review submitted a plat map, and a spreadsheet of the five lots in this subdivision that also have a portion of the site in Polk and Dallas Counties. (Exhibits A & B). The following chart depicts the spreadsheet.

	Polk County	Dallas County	Total
Lot 9/9B	Lot 9	Lot 9B	
Site Size	58,094	8844	66,938
Assessment	\$173,000	\$50	\$173,050
AV/SF	\$2.98	\$0.01	\$2.59
Subject	Lot 11	Lot 11B	
Site Size	23,767	39,204	62,971
Assessment	\$113,300	\$120,000	\$233,300
AV/SF	\$4.77	\$3.06	\$3.70
Lot 10/10B	Lot 10	Lot 10B	
Site Size	14,214	41,102	55,316
Assessment	\$72,600	\$168,820	\$241,420
AV/SF	\$5.11	\$4.11	\$4.36
Lot 12/12B	Lot 12	Lot 12B	
Site Size	38,572	20,107	58,679
Assessment	\$180,500	\$55,080	\$235,580
AV/SF	\$4.68	\$2.74	\$4.02
Lot 13/13B	Lot 13	Lot 13B	
Site Size	45,002	5756	50,758
Assessment	\$209,300	\$12,690	\$221,990
AV/SF	\$4.65	\$2.21	\$4.37

Lot 9/9B is currently unimproved and therefore we do not find it comparable to improved sites, like the subject. The remaining lots are improved and their assessed values range from \$2.21 per-square-foot to \$4.11 per-square-foot, with the subject's assessment in the middle end of this range. Further, the overall assessed value for Lots 11 and 11B is the lowest of the similarly situated and improved properties.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds

presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Tollaksons submitted an appraisal by William Pruett; however, we find flaws with the analysis. First, the effective date of value is February 2014, whereas the appeal is for the January 1, 2013, assessment. Additionally, Pruett uses a hypothetical condition, which we do not find correctly values the property for assessment purposes. The hypothetical condition assumes Lot 11B is a separate

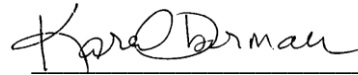
parcel and not contiguous to the adjoining Lot 11. Further, Pruett valued only a portion of Lot 11B, deducting roughly 8200 square feet improved with part of a swimming pool that straddles both adjoining lots.

The record indicates the character of the subject development dictates the marketplace would consider Lots 11 and 11B as a single unit. Additionally, these parcels are improved and we find it unlikely Lot 11B could be sold as a separate site and Lot 11 remain in compliance with required ordinances and setbacks. We find the Tollaksons' property is appropriately valued as a unit. § 428.7 (“[D]escriptions may be combined for assessment purposes to allow the assessor to value the property as a unit.”); *Sevde v. Bd. of Review of Ames*, 434 N.W.2d 878, 880 (Iowa 1989) (stating that “the assessor [has] some discretion to aggregate separately described tracts for valuation purposes.”). Ultimately, we find Pruett’s appraisal does not accurately reflect the actual value of the property and the Tollaksons have not established inequity under the *Maxwell* test.

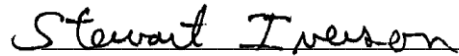
Lastly, the Tollaksons submitted a list of properties they assert demonstrate inequity. However, this evidence is incomplete and, therefore, insufficient to support a claim of inequity. Ultimately, we find the Tollaksons did not submit sufficient evidence that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties. Thus, the evidence did not prove inequity under either the *Maxwell* or *Eagle Foods* tests.

THE APPEAL BOARD ORDERS the assessment of Rick and Nanette Tollaksons' property located at 14239 Ridgemont Drive, Urbandale, Iowa, as set by the Dallas County Board of Review is affirmed.

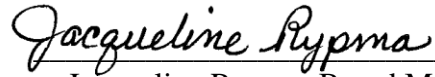
Dated this 2nd day of April, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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